

**Testimony Supporting  
S.B. 47: An Act Concerning Second Parent Adoption**

Testimony of Grace Hart<sup>1</sup>  
To the Committee on Children  
February 18<sup>th</sup>, 2014

Senator Bartolomeo, Representative Urban, and Distinguished Members of the Children's Committee:

I am a member of the Legislative Advocacy Clinic of the Jerome Frank Legal Services Organization at Yale Law School. I am testifying today on behalf of Connecticut Voices for Children, a research-based public education and advocacy organization that works statewide to promote the well-being of Connecticut's children, youth, and families.

**Summary:** CT Voices supports S.B. 47, which will provide legal certainty and continuity in family relationships for all co-parented children. The bill waives the home study requirement for second parent adoptions, or cases in which a person who shares parental responsibility with the parent of a child is seeking adoption. Current state law expedites the adoption process for step-parent adoptions only by waiving the home study requirement, which often takes considerable time. S.B. 47 would extend this exemption to second parent adoption recognizing that the need for home study is similarly low for co-parent adoptions. This change would not only remedy a policy inconsistency but also align state law with Connecticut's changing family demographics. CT Voices believes bypassing the lengthy home study process is crucial to more quickly move the children of co-parents to a position of legal certainty, particularly for the children of same-sex couples. This bill contains identical language to S.B. 314, which passed the Senate with an overwhelming majority during the last legislative session.

**I. The Adoption Process Should be Streamlined for Second Parent Adoptions**

Connecticut state law currently allows for second parent adoptions, meaning that a person who shares parental responsibility for a child may adopt or join in the adoption of the child. When the Probate Court receives an adoption petition, including one for a second parent adoption, the Court asks the Department of Children of Families (DCF) or a child placing agency to conduct a home study and compile a written report.<sup>2</sup> The home study as a whole is intended to assess the applicant's ability to provide an environment that will advance the physical, mental, emotional, educational and social development of the adoptive child. The investigation examines the physical condition of the home, the health of the applicant and other members of the household, and the character of the applicant and other members of the household.<sup>3</sup> A final copy of the home study report is submitted to the Probate Court, which must provide a favorable recommendation to complete the adoption.

<sup>1</sup> Grace Hart is a student at Yale Law School. This testimony was prepared through the Yale Law School Legislative Advocacy Clinic under the supervision of J.L. Pottenger, Jr., Nathan Baker Clinical Professor of Law, Shelley Geballe, Distinguished Senior Fellow at Connecticut Voices for Children and Clinical Visiting Lecturer at Yale Law School, and Kenneth Feder, Policy Fellow at Connecticut Voices for Children.

<sup>2</sup> State Agencies Regs. § 17a-145-132

<sup>3</sup> State Agencies Regs. § 17a-145-132

Under current state law, the Probate Court is required to waive the home study for step-parent adoptions unless good cause is shown. In 2012, the Probate Court changed its rules to also waive the home study requirement for same-sex married couples.<sup>4</sup> These policies reflect the belief that there is less need for a home study investigation in step-parent adoptions as the child's parent is vouching for the fitness of the step-parent. As a result, the state does not need to make an independent assessment of the fitness of the adoptive parent and it is appropriate to waive the lengthy home study process that delays adoptions. Current Connecticut law, however, treats step-parents differently from all other persons who share parental responsibility for a child by waiving the home study.

CT Voices believes the home study exemption should be extended to second parent adoptions to remedy this inconsistency. Current law burdens co-parents, but not step-parents, with procedural requirements even though they similarly share parental responsibilities. S.B. 47 would remedy this policy inconsistency and align state law with Connecticut's changing family demographics. Family structures have changed dramatically over the past half-century as heterosexual couples increasingly choose to postpone or forego marriage and same-sex marriage has become legally recognized.<sup>5</sup> In Connecticut, the 2010 census reported that more than 80,000 of the state's households had unmarried partners (including both opposite sex and same-sex partners).<sup>6</sup> Waiving the home study requirement for second parent adoption could thus impact a significant number of families by streamlining the process by which they can obtain legal recognition for their parental responsibilities.

As DCF noted during the hearing on S.B. 314 in this committee, the Probate Court retains the authority to order home studies if there is good cause, ensuring an appropriate safeguard for circumstances in which a home study would be appropriate. CT Voices thus believes S.B. 47 facilitates streamlined second parent adoptions without jeopardizing child safety.

## **II. Streamlined Second Parent Adoption Promotes Certainty and Continuity in Family Relationships for Children**

Second parent adoption is particularly important in providing certainty and continuity for children with co-parents who share parental responsibility but do not have parental status legally. If a person has assumed the role of co-parent, second parent adoption extends the protections and benefits of stepparent adoption even though the legal parent and the co-parent are not married. In this regard, second parent adoption recognizes an ongoing familial situation and provides the child with the benefits of two legal parents.<sup>7</sup>

Without second parent adoption, both the co-parent and the child face significant legal disadvantages. For example, in the event of a family breakup, the child does not have the right to support from the co-parent and would not be eligible for health care coverage under the co-parent's

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<sup>4</sup> Probate Court Rule 40.12

<sup>5</sup> Melissa Holtzman, "Nonmarital Unions, Family Definitions, and Custody Decision Making," *Family Relations* 60 (December 2011): 618-19 <http://eds.b.ebscohost.com/> (accessed February 14, 2014).

<sup>6</sup> U.S. Census Bureau, "Households and Families," *American FactFinder*, <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (accessed February 14, 2014).

<sup>7</sup> Emily C. Patt, "Second Parent Adoption: When Crossing the Marital Barrier is in a Child's Best Interests," *Berkeley Journal of Gender, Law & Justice* 3, no. 1 (2013): 97 <http://home.heinonline.org/> (accessed February 13, 2014).



health plan.<sup>8</sup> In contrast, if a child has two legally recognized parents and the family unit breaks up, the child would be legally entitled to support from both parents.<sup>9</sup> Second parent adoption is also crucial in the event of death or incapacity of the legal parent since it ensures the child can maintain a continuous relationship with a stable, familiar parental figure. In contrast, without adoption, there is no assurance the legally unrecognized co-parent would have any right to custody of the child and may not even be able to continue making decisions concerning the child's welfare.<sup>10</sup> Finally, second parent adoption is particularly significant if the co-parent dies. If the co-parent is not legally recognized, the child would have no right to inherit from the co-parent or obtain his or her social security benefits.<sup>11</sup> It is thus clear that without second parent adoption, both the co-parent and the child are placed in an uncertain and tenuous position.

State law currently confers a benefit, an expedited adoption process, on some children based on the marital status of their parents, while other children and their parents are subjected to more burdensome procedural requirements to obtain an adoption. This disparity in treatment increases the risk that large numbers of children will be left legally vulnerable in the event of family breakup or the death of a parent or co-parent. Streamlining second parent adoption by removing the home study requirement would significantly reduce the risk that children are left in such an uncertain position due to the structure of their family.

### III. Streamlined Second Parent Adoptions Are Necessary for the Children of Same-Sex Parents

Second parent adoption is particularly important to provide full legal protections for the children of gay and lesbian parents. While Connecticut legally recognizes same-sex marriage, most states still do not. As a result, in most jurisdictions, second parent adoption is the only means available for a gay or lesbian partner to become a legal parent to his or her partner's children.<sup>12</sup> Therefore, even though gay or lesbian parents can adopt the children of their partners through step-parent adoption, second parent adoption provides full legal protection should the parents move to a state that does not recognize same-sex marriage. It is thus important for Connecticut to streamline second parent adoption to ensure the children of Connecticut same-sex couples are not subjected to risks of legal uncertainty if their parents move to a different state.

CT Voices urges the committee to support S.B. 47, which will promote two-parent family formation, provide legal certainty and family continuity for children, and protect the rights of children of same-sex couples.

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<sup>8</sup> Patricia J. Falk, "Second-Parent Adoption," *Cleveland State Law Review* 48 (2000): 94 <http://papers.ssrn.com/> (accessed February 14, 2014).

<sup>9</sup> Patt, 106.

<sup>10</sup> Patt, 106-7.

<sup>11</sup> Falk, 94.

<sup>12</sup> Richard F. Storrow, "Rescuing Children from the Marriage Movement: The Case Against Marital Status Discrimination in Adoption and Assisted Reproduction," *U.C. Davis Law Review* 39, n. 2 (February 2006): 340 <http://papers.ssrn.com/> (accessed February 14, 2014).

